

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ADMINISTRATIVE ORDER  
UNDER SECTION 311(c) OF THE CLEAN WATER ACT  
REGION 5

IN THE MATTER OF BP PRODUCTS NORTH AMERICA, INC., BP PIPELINES (NORTH AMERICAN), INC, AND US PIPELINE AND LOGISTICS

Docket Number: CWA1321-5-10-002

Proceedings under Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), as amended by the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*

**I. JURISDICTION AND GENERAL PROVISIONS**

1. The United States Environmental Protection Agency (USEPA) is issuing this Order to: BP Products North America, Inc., a Maryland corporation conducting business in the State of Indiana; BP Pipelines (North America) Inc., a Maine corporation conducting business in the State of Indiana; and US Pipeline and Logistics (Respondents). This Order is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(c), as amended, commonly referred to as the Clean Water Act (CWA). This authority has been delegated to the Administrator of the USEPA by Executive Order No. 12777, 58 *Fed. Reg.* 54,757 (Oct. 22, 1991), and delegated to the USEPA Regional Administrators by USEPA Delegation No. 2-89 and redelegated to On-Scene Coordinators by USEPA Region 5 Delegation No. 2-89.

2. This Order requires performance of removal actions in connection with a facility located at or near 175<sup>th</sup> Street and White Oak Avenue in Hammond, Indiana. This Order requires the Respondents to immediately conduct removal of a discharge and/or to mitigate or prevent a substantial threat of a discharge of oil.

**II. PARTIES BOUND**

3. This Order applies to Respondents. The Order further applies to persons acting on behalf of Respondents, or who succeed to an interest in Respondents. Any change in ownership or corporate status of a Respondent, including but not limited to a transfer of assets or real or personal property will not alter the responsibilities under the Order.

4. Respondents must ensure that their contractors, subcontractors, and agents comply with this Order. Respondents will be liable for any violation of the Order by their employees, agents, contractors, or subcontractors.

### **III. DEFINITIONS**

5. Unless otherwise expressly provided herein, terms used in this Order which are defined in Section 311 of the CWA, 33 U.S.C. § 1321, or in Section 1001 of the Oil Pollution Act (OPA), 33 U.S.C. §§ 2701, shall have the meaning assigned to them in the CWA or the OPA. Whenever terms listed below are used in this Order, the following definitions shall apply.

6. "Oil" shall have the meaning set forth in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), for the purposes of the work to be performed under this Order, and Section 1001(23) of OPA, 33 U.S.C. § 2701(23), for purposes of reimbursement of costs.

7. "Hazardous substance" shall have the meaning set forth in Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14).

8. "Navigable waters" shall have the meaning set forth in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), Section 1001(21) of OPA, 33 U.S.C. § 2701(21), and 40 CFR Part 110.

9. "Facility" shall have the meaning set forth in Section 311(a)(10) and (a)(11) of the CWA, 33 U.S.C. §§ 1321(a)(10) and (a)(11), and by Sections 1001(22) and (24) of the OPA, 33 U.S.C. §§ 2701(22) and (24).

10. "Discharge" shall have the meaning set forth in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2) and 40 CFR Part 110.1 for purposes of the work to be performed under this Order, and shall have the meaning set forth in Section 1001(7) of the OPA, 33 U.S.C. § 2701(7), for purposes of reimbursement of cost.

11. "Order" shall mean this Order.

12. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 CFR Part 300, including, but not limited to, any amendments thereto.

### **IV. FINDINGS OF FACT AND VIOLATIONS**

13. The facility is a segment of a pipeline, approximately 3.15 miles long containing a volume of approximately 100,000 gallons of oil product, discharging an unknown volume of oil at or about 175<sup>th</sup> and White Oak Avenue in Hammond, Indiana. The pipeline is an onshore facility running from the BP Whiting Refinery, Whiting Indiana to a terminal in Manhattan, Illinois.

14. On or before August 13, 2010, following citizen complaints of odors, it was discovered Respondents' pipeline released oil product in a residential area in Hammond, Indiana. Oil discharged into the soil and subsequently entered the Hammond sanitary sewer system which may discharge to the Little Calumet River. The Little Calumet River is a navigable water of the United States.

15. Respondents are the owners and/or operators of the facility or vessel from which the discharge or substantial threat of a discharge took place.

## **V. ORDER**

Respondents must comply with the following requirements:

### **Work to Be Performed**

16. Respondents must perform the work necessary to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300.

17. Respondents must identify a contact person responsible for the removal within 1 business day of issuance of this Order.

18. Respondents must take the following immediate stabilization and mitigation actions:
- Isolate and depressurize the pipeline from Summer Street to Little Calumet Lift Station by August 18, 2010;
  - Stop pressurized flow from the pipeline at the suspected discharge location at 175<sup>th</sup> and White Oak Avenue by August 18<sup>th</sup>, 2010;
  - Excavate and identify the source of the pipeline release by 1800 hours on August 22, 2010 as directed by USEPA, State and local officials in Unified Command;
  - Deploy appropriate oil recovery and containment devices and equipment, *e.g.* skimmers, vacuum trucks, absorbent/containment booms by August 18, 2010;
  - Perform continuous air monitoring and sampling as directed by USEPA and public health officials beginning August 18, 2010;
  - Assess and mitigate any impacts to drinking water supplies associated with the discharge beginning August 18, 2010;
  - Assess impact and or contact of oil to the 30 inch drinking water line which runs adjacent to pipeline, through excavation, air monitoring and if necessary, visual inspection as directed by USEPA, State and local officials in Unified Command;
  - Perform groundwater, storm water, surface water, soil and sediment sampling of impacted areas as directed by USEPA, State and local officials in Unified Command;
  - Notify USEPA immediately, but no later than Sunday August 22, 2010 after discovery of the discharge point and of the date and time that the discharge of oil from the pipeline ceased and the date and time the discharge of oil ceased into the sewer that runs to the lift station that may discharge to the Little Calumet River at

Walnut Avenue;

- Remediate the oil and contaminated soil in accordance with the Workplan by September 15, 2010;
- Remediate any impacted areas (including shoreline if any) along the Little Calumet River by September 15, 2010;
- Dispose of all wastes at USEPA approved disposal facilities; and
- Submit a final report to USEPA detailing all work completed including monitoring and analytical data, disposal records, and all documentation related to the response by October 1, 2010.

19. Within 2 business days from the effective date of this Order, Respondents must develop and submit to USEPA for approval, a work plan (Work Plan) that includes a schedule for completing the tasks described below. Respondents must begin work within 1 business day of USEPA approval of the Work Plan. The Work Plan must include the following tasks:

- Health and Safety Plan
- Pipeline Repair workplan
- Sampling and Analysis Plan
- Quality Assurance Project Plan
- Oil recovery and containment plan
- Source release area remediation plan
- If discharge reaches any navigable waterway, provide a Remediation Plan for any downstream impacted areas
- Waste treatment, transportation, and disposal plan

20. Respondents must submit the Work Plan to:

James Mitchell, OSC  
U.S. EPA (SE-5J)  
Emergency Response Section 4  
Chicago, IL 60604

USEPA will approve, disapprove and require modifications, or modify Respondents' Work Plan. Once approved or approved with modifications, Respondents' Work Plan and schedule become an enforceable part of this Order.

#### Reporting Requirements

21. Respondents must submit a written progress report to USEPA concerning actions undertaken pursuant to this Order every 7 calendar days after the effective date of this Order, unless otherwise directed in writing by USEPA personnel. These reports must describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, and developments

anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

22. Respondents may assert a business confidentiality claim pursuant to 40 CFR § 2.203(b) with respect to part or all of any information submitted to USEPA pursuant to this Order, provided such claim is allowed by Section 308(b)(2) of CWA, 33 U.S.C. § 1318(b)(2). USEPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by USEPA, USEPA may make it available to the public without further notice to Respondents. Respondents must not assert confidentiality claims with respect to any data or documents related to site conditions, sampling or monitoring.

#### Access to Property and Information

23. Respondents must provide access to the facility, to off-site areas where access is necessary to implement this Order, and to all documents related to conditions at the facility and work conducted under the Order. Respondents must provide this access to USEPA and the United States Coast Guard and their contractors and representatives.

### **VI. RESERVATION OF RIGHTS AND PENALTIES**

24. This Order shall not preclude USEPA from taking any action authorized by the CWA, the OPA, the National Contingency Plan, or any other applicable law. USEPA reserves the right to direct all activities including off-facility shipping, disposal and all other matters. Further, nothing herein shall prevent USEPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to the CWA, the OPA, or other applicable law.

25. Respondents must notify USEPA of any response actions taken to address the discharge described above that are not described in this Order.

26. Violation of any term of this Order may subject Respondents to a civil penalty of up to \$37,500 per day of violation or an amount up to three times the cost incurred by the Oil Spill Liability Trust Fund as a result of such failure under Section 311(b)(7)(B) of the CWA, 33 U.S.C. §1321(b)(7)(B), as adjusted by 74 *Fed. Reg.* 626 (Jan. 7, 2009) (codified at 40 CFR 19.4).

27. Respondents may request a conference with USEPA regarding the terms and requirements of this Order.

### **VII. EFFECTIVE DATE**

28. The effective date of this Order shall be the date of the receipt of this Order by the

Respondents.

James Mitchell  
On-Scene Coordinator

18 AUGUST, 2010  
Date

Received by: Justin D. Estey  
Representing Respondents

18 AUGUST, 2010  
Date